

### **REMARKS**

Claims 1-60 were cancelled in a preliminary amendment filed on December 27, 2006. New claims 70-72 have been added. No new matter has been added. Claims 61-69 have been amended. Claims 61-72 are pending.

#### ***Disclaimers Relating to Claim Interpretation and Prosecution History Estoppel***

Claims 61-69 have been amended, notwithstanding the belief that these claims were allowable. Except as specifically admitted below, no claim elements have been narrowed. Rather, cosmetic amendments have been made to the claims and to broaden them in view of the cited art. Claims 61-69 have been amended solely for the purpose of expediting the patent application process, and the amendments were not necessary for patentability.

The claims of this application are intended to stand on their own and are not to be read in light of the prosecution history of any related or unrelated patent or patent application. Furthermore, no arguments in any prosecution history relate to any claim in this application, except for arguments specifically directed to the claim.

#### ***Claim Rejections - 35 USC § 101***

The Examiner rejected claims 67-69 under 35 USC § 101 as directed to non-statutory subject matter that is “not tangibly embodied in a manner so as to be executable”.

Claims 67-69 have been amended to overcome this rejection. Specifically, claim 67, as amended, recites, “A storage media having instructions stored thereon which when executed by a processor in a computer will cause the computer to perform actions comprising”. Similarly, claims 68 and 69 have been amended to claim a “storage media”. Claims 67-69, as amended, describe statutory subject matter as the claims recite a “storage media” which is tangible subject matter. Support for the amended claims can be found in the specification at paragraph 50. Accordingly, these claims now claim statutory subject matter. Therefore, it is respectfully requested that the 101 rejection be withdrawn.

***Claim Rejections - 35 USC § 102***

The Examiner rejected claims 61-69 under 35 USC § 102(b) as anticipated by Radziewicz (USP 5,854,897). This rejection is respectfully traversed.

Claim 61 discloses at least one limitation that is not disclosed in Radziewicz. Claim 61, as amended, recites, “**after completing** downloading the video file, **automatically commencing** displaying the video file in a viewer window wherein the size of the viewer window is of a size not less than a predetermined minimum size and wherein the viewer window is located on top of all open windows.” (emphasis added). The office action asserts that Radziewicz teaches this limitation at col. 5, line 64 to col. 6, line 12. However, Radziewicz does not disclose, teach or suggest this limitation.

Instead, Radziewicz discloses a method whereby an advertisement is **transmitted and displayed** in a window only **while the connection path remains idle**. Specifically, Radziewicz discloses:

“In a first method, the DTE 14 executes the modified browser client software 26 **and the advertisements are transmitted to the DTE 14 whenever the connection path 20 is idle, with the DTE 14 displaying the advertisements in a fixed window of the browser display area**. In a second method, the DTE 14 does not have the modified browser client software 26 and the NSP 16 includes a modified home page which allows the DTE 14 to communicate with other devices/computers on the computer network 10 through the modified home page of the NSP 16. The advertisements are displayed in a fixed window of the modified home page of the NSP 16, with the modified home page (including advertisements) being displayed on the DTE 14...

In a fourth method, when the connection path 20 is idle, the advertisements are transmitted to the DTE 14 and displayed in a transient display window. **The transient window is opened on the DTE 14 allowing the advertisements to be played/displayed while the connection path 20 is idle. When there are data packets to be transmitted to/from the DTE 14 such that the connection path 20 is no longer idle, the transient window is either closed or made a background window**. If the transient window is made a background window, the transient window is movable to the foreground upon entry of a predetermined command at the network terminating device.” (emphasis added) (col. 5, line 51 – col. 6, line 12).

As seen from the quoted portion of Radziewicz included above, when a connection path is no longer idle, the window displaying the advertisement is “either closed or made a background window”. In Radziewicz, the advertisement is being displayed as it is being transmitted to the computer. As such, Radziewicz discloses transmitting and displaying an advertisement only as long as the connection path remains idle. However, closing the window or putting the window in the background, as disclosed in Radziewicz, is not the same as “**after completing downloading the video file, automatically commencing displaying the video file in a viewer window wherein the size of the viewer window is of a size not less than a predetermined minimum size** and wherein the viewer window is **located on top of all open windows**” as recited in claim 61. (emphasis added).

That is, in Radziewicz, the advertisement is being transmitted as it is being displayed and further, the window is interrupted or closed when the connection path is not idle. In Radziewicz, by closing the advertisement window, as disclosed in Radziewicz, the full duration of the advertisement does not get displayed. Because Radziewicz discloses displaying the advertisement as it is being transmitted, Radziewicz does not disclose “**after completing downloading the video file, automatically commencing displaying the video file in a viewer window wherein the size of the viewer window is of a size not less than a predetermined minimum size** and wherein the viewer window is **located on top of all open windows**” as claimed in claim 1. Because Radziewicz does not disclose all of the limitations of claim 61, claim 61 is patentable over Radziewicz.

Independent claims 64 and 67 also include the limitation of claim 61 that recites, “wherein the size of the viewer window is of a size not less than a predetermined minimum size and wherein the viewer window is located on top of all open windows.” As stated above, Radziewicz does not disclose this limitation. As such, claims 64 and 67 are patentable over Radziewicz.

By virtue of their dependency on claims 61, 64 and 67, claims 62-63, 65-66 and 68-69 are patentable over Radziewicz. Accordingly, it is respectfully requested that the 102 rejection of claims 61-69 be withdrawn.

New claims 70, 71 and 72 are dependent on claims 61, 64 and 67. By virtue of their dependency on claims 61, 64 and 67, claims 70, 71 and 72 are patentable over Radziewicz.

***Conclusion***

It is submitted, however, that the independent and dependent claims include other significant and substantial recitations which are not disclosed in the cited references. Thus, the claims are also patentable for additional reasons. However, for economy the additional grounds for patentability are not set forth here.

In view of all of the above, it is respectfully submitted that the present application is now in condition for allowance. Reconsideration and reexamination are respectfully requested and allowance at an early date is solicited.

The Examiner is invited to call the undersigned registered practitioner to answer any questions or to discuss steps necessary for placing the application in condition for allowance.

Respectfully submitted,



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Date: June 11, 2007

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